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Starbright Corporation and Andertainment Group, LLC, as joint employers and International Alliance of Theatrical Stage Employees, Moving Picture Technicians, Artists and Allied Crafts of the United States, Its Territories and Canada, AFL-CIO, CLC. Case 15-CA-204467

July 20, 2018

DECISION AND ORDER

BY CHAIRMAN RING AND MEMBERS MCFERRAN,
AND KAPLAN

The General Counsel seeks a default judgment in this case on the ground that the Respondents have failed to file an answer to the complaint. Upon a charge filed by the International Alliance of Theatrical Stage Employees, Moving Picture Technicians, Artists, and Allied Crafts of the United States, its Territories and Canada, AFL-CIO (“Union”) on August 16, 2017, the General Counsel issued a complaint on November 29, 2017, against Starbright Corporation and Andertainment Group LLC, as joint employers (the Respondents), alleging that they have violated Section 8(a)(5) and (1) of the National Labor Relations Act. The Respondents failed to file an answer.

On February 2, 2018, the General Counsel filed with the Board a Motion for Default Judgment. Thereafter, on February 7, 2018, the Board issued an order transferring the proceeding to the Board and a Notice to Show Cause why the motion should not be granted. The Respondents filed no response.¹ The allegations in the motion are therefore undisputed.

¹ The assertions in the motion for default judgment and attached exhibits indicate that the Region sent a copy of the complaint, with its answer requirement and notice concerning the potential for default judgment in the event of a failure to answer, to all parties and that the complaint was received. The motion for default judgment and attached exhibits further indicate that the Region sent a reminder letter to the last known address of all parties by certified U.S. Mail, but that the reminder letter was not delivered to the Respondent Olimpia Lucente, Starbright, at its 13945 Riverside Drive, Sherman Oaks, California 91423 address or to Starbright Corporation at its 5615 Corporate Boulevard, Baton Rouge, Louisiana 70808 address. The reminder letter was received by all other parties and representatives. An attempt to reach Respondent Olimpia Lucente, Starbright at its Sherman Oaks, California address by certified mail stamped February 7, 2018 was returned with a message stating “FORWARD TIME EXPIRED—RETURN TO SENDER.” Likewise, an attempt to reach Starbright Corporation at its Baton Rouge, Louisiana address by certified mail stamped February 7, 2018 was returned with a message stating “RETURN TO SENDER INSUFFICIENT ADDRESS UNABLE TO FORWARD.” It is well settled that a respondent’s failure or refusal to accept certified mail or

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

Ruling on Motion for Default Judgment

Section 102.20 of the Board’s Rules and Regulations provides that the allegations in a complaint shall be deemed admitted if an answer is not filed within 14 days from service of the complaint, unless good cause is shown. In addition, the complaint affirmatively states that unless an answer is received on or before December 13, 2017, the Board may find, pursuant to a motion for default judgment, that the allegations in the complaint are true. Further, the undisputed allegations in the General Counsel’s motion for default judgment disclose that the Region, by letter dated December 21, 2017, advised the Respondents that the time limits for filing an answer to the complaint had expired and notified the Respondents that unless an answer was received by December 28, 2017, the Region would file a motion for default judgment. Nevertheless, the Respondents failed to file an answer.

In the absence of good cause being shown for the failure to file an answer, we deem the allegations in the complaint to be admitted as true, and we grant the General Counsel’s Motion for Default Judgment.

On the entire record, the Board makes the following

FINDINGS OF FACT

I. JURISDICTION

At all material times, Respondent Starbright has been a corporation with an office and place of business in Andalusia, Alabama, and has been engaged in the production of the motion picture “STARBRIGHT.”

In conducting its operations as described above, Respondent Starbright annually sold and shipped from its Andalusia, Alabama facility goods valued in excess of \$50,000 directly to points outside the State of Alabama, and purchased and received at its Andalusia, Alabama facility goods valued in excess of \$50,000 directly from points outside the State of Alabama.

At all material times, Respondent Andertainment has been a corporation with an office and place of business in Andalusia, Alabama, and has been engaged in the production of the motion picture “STARBRIGHT.”

In conducting its operations as described above, Respondent Andertainment annually sold and shipped from

to provide for receiving appropriate service cannot serve to defeat the purposes of the Act. See *Cray Construction Group, LLC*, 341 NLRB 944, 944 fn. 5 (2004); *I.C.E. Electric, Inc.*, 339 NLRB 247, 247 fn. 2 (2003). Further, the failure of the Postal Service to return documents served by regular mail indicates actual receipt of those documents by the Respondents. *Id.*; *Lite Flight, Inc.*, 285 NLRB 649, 650 (1987), *enfd* sub nom. *NLRB v. Sherman*, 843 F.2d 1392 (6th Cir. 1988).

its Andalusia, Alabama facility goods valued in excess of \$50,000 directly to points outside the State of Alabama, and purchased and received at its Andalusia, Alabama facility goods valued in excess of \$50,000 directly from points outside the State of Alabama.

At all material times, Respondent Starbright and Respondent Andertainment have been parties to a contract which provides that Respondent Starbright is the agent for Respondent Andertainment in connection with the production of the movie picture "STARBRIGHT."

At all material times, Respondent Andertainment possessed control over the labor relations policy of Respondent Starbright and administered a common labor relations policy with Respondent Starbright for the employees of Respondent Starbright.

At all material times, Respondent Andertainment and Respondent Starbright have been joint employers of the employees of Respondent Starbright.

We find that the Respondents (Starbright and Andertainment, individually and as a joint-employer) are employers engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

At all material times, International Alliance of Theatrical Stage Employees, Moving Picture Technicians, Artists and Allied Crafts of the United States, its Territories and Canada, Local 720, AFL-CIO, CLC (the Union) has been a labor organization within the meaning of Section 2(5) of the Act.

II. ALLEGED UNFAIR LABOR PRACTICES

At all material times, the following individuals held the positions set forth opposite their respective names and have been supervisors of Respondent Starbright within the meaning of Section 2(11) of the Act and agents of Respondent Starbright within the meaning of Section 2(13) of the Act:

| | | |
|---------------|---|----------------------------|
| Enrico Fadani | - | Head Producer |
| Jarred Coates | - | Line Producer |
| Donald Napoli | - | 1 st Accountant |
| Lydia Lucente | - | Associate Producer |

At all material times, the following individuals held the positions set forth opposite their respective names and have been supervisors of Respondent Andertainment within the meaning of Section 2(11) of the Act and agents of Respondent Andertainment within the meaning of Section 2(13) of the Act:

| | | |
|---------------|---|----------------------------|
| Enrico Fadani | - | Head Producer |
| Jarred Coates | - | Line Producer |
| Donald Napoli | - | 1 st Accountant |
| Lydia Lucente | - | Associate Producer |

The following employees of the Respondents constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

All employees covered by the Theatrical and Television Motion Picture Area Standards Agreement of 2015, in the following crafts or classifications: construction, paint & scenic: coordinator, draftsman, foreman, gang boss, shop crafts person, prop/model makers, construction divers, utility technicians, buyer, tool person, key scenic artist, scenic foreperson, set painters, scenic artist, sign painters/writers, on set painters, sculptors/plasterers; props: prop master, assistant prop master/prop assistant, buyer, prop weapons, on set picture cars/boats, marine coordinator, boat handlers, prop person; set dressing: set decorator, lead person, draper/upholsterer, buyer, first dresser (MD), dressers, on set, off set, swing gang; greens: greens persons/foreman, first greens, on set greens; wardrobe: wardrobe supervisor, costume designer, key wardrobe/lead set wardrobe, assistant key (non-MD), costumer/buyer/stylist, set costumer, key tailor/fitter (MD), seamstress/tailor/"stitcher"/sewer; grips: key, best boy grip, dolly grip, crane operators, grips, pre-riggers; electric: gaffer, best boy, generator operator, electrician, laptop operator (lighting), pipe rigging; special effects: coordinator/key, effects assistant/charge person, additional effects/mechanical effects/ powder person, divers; sound: mixer/"recording", boom person/assistant, cable utility person; video assist: VTR/playback, non-record video/video assist; crafts service: key crafts service, crafts service assistant; first aid: first aid (EMT, paramedic, RN); script supervisor: script supervisor (if hired locally); hair and makeup: key hair/key make up (if hired locally), assistant hair/assistant make up (if hired locally); production office: production office coordinator (if hired locally), assistant production office coordinator (if hired locally); art department: art department coordinator (if hired locally); projection: daily projectionist; transportation: transportation coordinator, transportation captain, driver employed by Respondent Starbright.

Since about September 8, 2016, and at all material times, the Respondents have recognized the Union as the

exclusive collective-bargaining representative of the unit. This recognition has been embodied in a recognition agreement dated September 8, 2016.

At all times since September 8, 2016, based on Section 9(a) of the Act, the Union has been the exclusive collective-bargaining representative of the unit.

Since about February 17, 2017, the Union has requested in writing that the Respondent furnish the Union with the following information:

- (a) From the first date of hire through the last date of hire (pre-production through wrap)
 - (1) Final or current crew list;
 - (2) Copies of the final approved production report for each day; and
 - (3) Copies of all invoices, payment records and/or payroll records for all production assistants and/or interns or any other individual that worked in or associated with the camera department.
- (b) List of all camera department employees name, housing status, date of hire, date of separation.
- (c) List of the following for all camera employees:
 - (1) All camera employees receiving housing (for distant hires);
 - (2) All camera employees receiving per diem as a cash payment (for distant hires);
 - (3) All camera employees who have completed a 1% dues check-off authorization form;
 - (4) All camera employees who have not completed a 1% dues check-off authorization form;
 - (5) Documentation verifying the payment of Housing (for Distant Hire); and
 - (6) Copies of per diem signature sheets showing payments in cash for per diem or housing.
- (d) Copies of all the employees files to include:
 - (1) Payroll start form (all pages);
 - (2) Deal memo (all pages);
 - (3) I-9 (address verification);
 - (4) 1-9 Backup documentation (address verification)
 - (5) Work assessment authorization form;
 - (6) Time sheets (all weeks);
 - (7) Paystubs or copies of paychecks (all weeks);
 - (8) Any other documents relating to the employees working conditions; and
 - (9) A summary earning report on each employee.

The information requested by the Union, as described above, is necessary for, and relevant to, the Union's per-

formance of its duties as the exclusive collective-bargaining representative of the unit.

From about February 17, 2017, to about August 28, 2017, the Respondents unreasonably delayed in furnishing the Union with the information requested by it as described above.

Since about February 17, 2017, the Respondents have failed and refused to furnish the Union with the time sheets requested by it as described above.

CONCLUSION OF LAW

By the conduct described above, the Respondents have been failing and refusing to bargain collectively and in good faith with the exclusive collective-bargaining representative of its employees in violation of Section 8(a)(5) and (1) of the Act. The Respondents' unfair labor practices described above affect commerce within the meaning of Section 2(6) and (7) of the Act.

REMEDY

Having found that the Respondents have engaged in certain unfair labor practices, we shall order them to cease and desist and to take certain affirmative action designed to effectuate the policies of the Act. Specifically, having found that the Respondents violated Section 8(a)(5) and (1) of the Act by unreasonably delaying in furnishing the Union with the requested information, we shall order the Respondents to cease and desist from delaying in providing the Union with requested information that is necessary for and relevant to its role as the exclusive collective-bargaining representative of the unit. Having further found that the Respondents violated Section 8(a)(5) and (1) of the Act by failing and refusing to furnish the Union with the time sheets requested on about February 17, 2017, we shall order the Respondents to furnish the Union with the requested information.

ORDER

The National Labor Relations Board orders that Starbright Corporation and Andertainment Group LLC, as joint employers, Andalusia, Alabama, their officers, agents, successors, and assigns, shall

1. Cease and desist from

(a) Failing and refusing to bargain collectively and in good faith with International Alliance of Theatrical Stage Employees, Moving Picture Technicians, Artists, and Allied Crafts of the United States, its Territories and Canada, AFL-CIO as the exclusive collective-bargaining representative of its unit employees by unreasonably delaying in furnishing the Union with requested information, and by failing to provide the Union with other requested information, that is necessary for and relevant to the Union's performance of its duties as the exclusive

collective-bargaining representative of the employees in the following appropriate unit:

All employees covered by the Theatrical and Television Motion Picture Area Standards Agreement of 2015, in the following crafts or classifications: construction, paint & scenic: coordinator, draftsman, foreman, gang boss, shop crafts person, prop/model makers, construction divers, utility technicians, buyer, tool person, key scenic artist, scenic foreperson, set painters, scenic artist, sign painters/writers, on set painters, sculptors/plasterers; props: prop master, assistant prop master/prop assistant, buyer, prop weapons, on set picture cars/boats, marine coordinator, boat handlers, prop person; set dressing: set decorator, lead person, draper/upholsterer, buyer, first dresser (MD), dressers, on set, off set, swing gang; greens: greens persons/foreman, first greens, on set greens; wardrobe: wardrobe supervisor, costume designer, key wardrobe/lead set wardrobe, assistant key (non-MD), costumer/buyer/stylist, set costumer, key tailor/fitter (MD), seamstress/tailor/"stitcher"/sewer; grips: key, best boy grip, dolly grip, crane operators, grips, pre-riggers; electric: gaffer, best boy, generator operator, electrician, laptop operator (lighting), pipe rigging; special effects: coordinator/key, effects assistant/charge person, additional effects/mechanical effects/ powder person, divers; sound: mixer/"recordist", boom person/assistant, cable utility person; video assist: VTR/playback, non-record video/video assist; crafts service: key crafts service, crafts service assistant; first aid: first aid (EMT, paramedic, RN); script supervisor: script supervisor (if hired locally); hair and makeup: key hair/key make up (if hired locally), assistant hair/assistant make up (if hired locally); production office: production office coordinator (if hired locally), assistant production office coordinator (if hired locally); art department: art department coordinator (if hired locally); projection: daily projectionist; transportation: transportation coordinator, transportation captain, driver employed by Respondent Starbright.

(b) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act.

(a) Furnish to the Union in a timely manner the information requested by the Union on February 17, 2017.

(b) Within 14 days after service by the Region, post at its facility in Andalusia, Alabama, copies of the attached

notice marked "Appendix."² Copies of the notice, on forms provided by the Regional Director for Region 15, after being signed by the Respondents' authorized representative, shall be posted by the Respondents and maintained for 60 consecutive days in conspicuous places, including all places where notices to employees are customarily posted. In addition to physical posting of paper notices, notices shall be distributed electronically, such as by email, posting on an intranet or an internet site, and/or other electronic means, if the Respondents customarily communicate with its employees by such means. Reasonable steps shall be taken by the Respondents to ensure that the notices are not altered, defaced, or covered by any other material. If the Respondents have gone out of business or closed the facility involved in these proceedings, the Respondents shall duplicate and mail, at their own expense, a copy of the notice to all current employees and former employees jointly employed by the Respondents at any time since February 17, 2017.

(c) Within 21 days after service by the Region, file with the Regional Director for Region 15 a sworn certification of a responsible official on a form provided by the Region attesting to the steps that the Respondents have taken to comply.

Dated, Washington, D.C. July 20, 2018

John F. Ring, Chairman

Lauren McFerran, Member

Marvin E. Kaplan, Member

(SEAL) NATIONAL LABOR RELATIONS BOARD

APPENDIX

NOTICE TO EMPLOYEES
POSTED BY ORDER OF THE
NATIONAL LABOR RELATIONS BOARD
An Agency of the United States Government

² If this Order is enforced by a judgment of a United States court of appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."

The National Labor Relations Board has found that we violated Federal labor law and has ordered us to post and obey this notice.

FEDERAL LAW GIVES YOU THE RIGHT TO

- Form, join, or assist a union
- Choose representatives to bargain with us on your behalf
- Act together with other employees for your benefit and protection
- Choose not to engage in any of these protected activities.

WE WILL NOT fail and refuse to bargain collectively and in good faith with International Alliance of Theatrical Stage Employees, Moving Picture Technicians, Artists, and Allied Crafts of the United States, its Territories and Canada, AFL–CIO (the Union) as the exclusive collective-bargaining representative of our unit employees by delaying in providing the Union with requested information that is necessary for and relevant to the performance of its duties as the exclusive collective-bargaining representative of our unit employees.

WE WILL NOT refuse to bargain collectively with the Union by failing and refusing to furnish it with requested information that is relevant and necessary to the Union's performance of its functions as the collective-bargaining representative of our unit employees.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exercise of the rights listed above.

WE WILL furnish to the Union in a timely manner the information requested by the Union on February 17, 2017.

STARBRIGHT CORPORATION AND
ANDERTAINMENT GROUP LLC AS JOINT
EMPLOYERS

The Board's decision can be found at www.nlr.gov/case/15-CA-204467 or by using the QR code below. Alternatively, you can obtain a copy of the decision from the Executive Secretary, National Labor Relations Board, 1015 Half Street, S.E., Washington, D.C. 20570, or by calling (202) 273–1940.

